



Homeland Security

August 16, 2007

MEMORANDUM FOR:

Carlos J. Castillo
Assistant Administrator for Disaster Assistance
Federal Emergency Management Agency

FROM:

Matt Jadacki 
Deputy Inspector General
Office of Disaster Assistance Oversight

SUBJECT:

Exchanging Contract Information with the United States Army Corps of Engineers (USACE) – Report Number: OIG-07-65

The purpose of this report is to advise you that cost data related to debris removal and demolition services needs to be shared in an efficient manner. FEMA and the United States Army Corps of Engineers (USACE) should routinely exchange contract information to ensure the government receives the best price for debris removal and demolition services following a disaster. We identified significant cost variances between debris removal and demolition contracts administered by USACE and local governments in Louisiana. FEMA and USACE were not routinely exchanging contract information to assist the government establish reasonable and consistent prices for debris removal and demolition services.

Debris removal and demolition activities following a disaster are administered by local governments, funded by FEMA public assistance grants or by USACE funded by Mission Assignments from FEMA. The State determines whether the local government or USACE will perform the work. Following Hurricane Katrina, local governments and USACE administered debris removal operations in the same geographic area, such as neighboring counties or parishes. For example, USACE handled debris removal and demolition services in Orleans Parish while the local government was responsible in adjacent St. Bernard Parish.

FEMA contract award guidance recognizes that comparing the cost data from other agencies on similar contracts is often beneficial in estimating contract costs. However, contract information was not exchanged between FEMA and USACE in Baton Rouge and New Orleans, despite the existence of this information and its potential value. Both FEMA and USACE could use this information, as part of their contract review process, to analyze the disparity between USACE and local government contracts and to ensure the government receives the best price for debris removal and demolition services following a disaster. FEMA and USACE field staff stated that they did not believe they could disclose contract information, even to other federal agencies. They were also concerned that contractor pricing data could not be protected or would be inappropriately released to the public.

USACE field operational staff initially said they were not permitted to share contract unit cost information with FEMA citing a court decision, *McDonnell Douglas vs. US Air Force*, 375 F3rd 1182 (D.C. Circuit 2004), that held the release of unit prices could cause competitive harm and therefore was not releasable to the public. The Department of Defense (DOD) also issued a memorandum on October 24, 2005, stating the release of contract information regarding Hurricane Katrina must first be reviewed and approved by a DOD Information Task Force. However, DOD later clarified that the mandate did not pertain to release to other federal agencies such as FEMA. Additionally, FEMA staff, which have access to applicant cost proposals as part of their review responsibility, did not share local government contract information with USACE and auditors from the Army Audit Agency (AAA) who were reviewing USACE contracts because of disclosure concerns.

According to FEMA guidance 9580.1, Public Assistance Debris Operations Job Aid, FEMA should check USACE costs when determining reasonable costs in a similar geographic area. FEMA and USACE staff acknowledged that sharing cost information, such as cubic yard costs of debris removal, demolition, and monitoring costs, would be useful in determining that these costs are both fair and equitable for the type of work being performed.

During our work in the Gulf area, we facilitated the exchange of contract cost information in Louisiana between FEMA, USACE, and AAA. We recommend that FEMA's Assistant Administrator for Disaster Assistance continue this practice by establishing procedures to exchange cost information on a routine basis with USACE to ensure reasonable and consistent unit price for debris removal.

The issues in this report were reviewed by and discussed with FEMA and USACE program and legal staff between January and March 2007. They agreed that exchanging contract cost information could benefit both agencies.

The nature and brevity of this assessment precluded the use of our normal audit protocols; therefore, we did not conduct this review according to generally accepted government auditing standards. Had we followed such standards, other matters might have come to our attention.

Please advise this office within 30 days of the actions taken or planned to implement this recommendation, including target completion dates for any planned actions. Should you have any questions, please call me, or your staff may contact Dennis White, Assistant Deputy Inspector General for Disaster Assistance Oversight, at (202) 254-4100.

cc: DHS Audit Liaison
FEMA Audit Liaison